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The Honorable James P. Donohue

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WESTERN DISTRICT OF WASHINGTON  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,	)	CASE NO. MJ18- <b>544</b>
	)	
Plaintiff,	)	<b>COMPLAINT for VIOLATION</b>
	)	<b>18 U.S.C. § 2251(a), (e)</b>
v.	)	<b>18 U.S.C. § 2252(a)(2), (b)(1)</b>
	)	
TIMOTHY ROSS SMITH,	)	
	)	
Defendant.	)	
	)	

BEFORE, The Honorable James P. Donohue, United States Magistrate Judge, U. S.  
Courthouse, Seattle, Washington.

**COUNT 1**

**(Production of Child Pornography)**

Beginning at a time unknown, but no later than December 2017, at Sumas, within the Western District of Washington, and elsewhere, the Defendant, TIMOTHY ROSS SMITH, did knowingly employ, use, persuade, induce, entice, and coerce MV1, a minor, to engage in sexually explicit conduct, and attempted to do so, for the purpose of producing a visual depiction of such conduct using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including computer.

COMPLIANT/SMITH - 1  
USAO-2018R01264

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1 All in violation of Title 18, United States Code, Section 2251(a), (e).

2 **COUNT 2**

3 **(Distribution of Child Pornography)**

4 Beginning on a date unknown, but no later than December 2017, at Sumas, within  
5 the Western District of Washington, and elsewhere, the Defendant, TIMOTHY ROSS  
6 SMITH, did knowingly distribute, and attempt to distribute, visual depictions, the  
7 production of which involved the use of minors engaging in sexually explicit conduct,  
8 and the visual depictions were of such conduct, using any means and facility of interstate  
9 and foreign commerce and which images had been mailed and shipped and transported in  
10 and affecting interstate and foreign commerce by any means, including by computer.

11 All in violation of Title 18, United States Code, Section 2252(a)(2), (b) (1).

12 And the Complainant states that this Complaint is based on the following  
13 information:

14 I, Jesse Miller, being first duly sworn on oath, depose and say:

15 **I. INTRODUCTION**

16 1. I am a Special Agent with the U.S. Department of Homeland Security,  
17 Homeland Security Investigations (HSI), assigned to the Assistant Special Agent in  
18 Charge (ASAC) Blaine, Washington, field office. I have been employed as an HSI  
19 Special Agent since 2001. In my capacity as a Special Agent, I am responsible for  
20 conducting investigations into the numerous federal laws enforced by HSI. Since 2018, I  
21 have investigated criminal violations relating to child exploitation and child pornography,  
22 including violations pertaining to the unlawful production, importation, distribution,  
23 receipt, attempted receipt, and possession of child pornography and material involving  
24 the sexual exploitation of minors in violation of 18 U.S.C. §§ 2251, 2252(a), and  
25 2252A(a). I am a graduate of the Federal Law Enforcement Training Center (FLETC),  
26 HSI (formally known as the U.S. Customs Service) Special Agent Training Program and  
27 have received further specialized training in investigating child pornography and child  
28 exploitation crimes. My training included courses in law enforcement techniques, federal

1 criminal statutes, conducting criminal investigations, and the execution of search  
2 warrants. I have participated in the execution of many search warrants which involved  
3 child exploitation and/or child pornography offenses and the search and seizure of  
4 computers and other digital devices. I am a member of the Internet Crimes Against  
5 Children (ICAC) Task Force in the Western District of Washington, and work with other  
6 federal, state, and local law enforcement personnel in the investigation and prosecution of  
7 crimes involving the sexual exploitation of children

8       2. As further detailed below, based on my investigation and the investigation  
9 of other law enforcement officers, I believe there is probable cause to conclude that  
10 TIMOTHY ROSS SMITH has committed the offenses charged in Count 1 and Count 2 of  
11 this Complaint—namely, production of child pornography in violation of 18 U.S.C.  
12 § 2251(a), (e) and distribution of child pornography in violation of 18 U.S.C.  
13 § 2252(a)(2), (b)(1).

14       3. The facts set forth in this complaint are based on my own personal  
15 knowledge; knowledge obtained from other individuals during my participation in this  
16 investigation, including other law enforcement officers; review of documents and records  
17 related to this investigation; communications with others who have personal knowledge  
18 of the events and circumstances described herein; and information gained through my  
19 training and experience.

20       4. Because this complaint is offered for the limited purpose of establishing  
21 probable cause, I list only those facts that I believe are necessary to support such a  
22 finding. I do not purport to list every fact known to me or others because of this  
23 investigation.

## 24                   II. SUMMARY OF INVESTIGATION

25       5. In October 2018, Homeland Security Investigations (HSI) Blaine,  
26 Washington, received the Chelan County Sheriff's Office investigative reports,  
27 information, and evidence regarding TIMOTHY ROSS SMITH. A review of the  
28 information and evidence revealed that TIMOTHY ROSS SMITH was producing child

1 pornography involving his six-year-old daughter (hereafter MV1) and distributing the  
2 child pornography files of MV1 to an individual named R.S. of Chelan, Washington, via  
3 cellular phone.

4 6. In August 2017, the Chelan County Sheriff's Office received information  
5 from the Pittsfield Police Department located in Massachusetts. The information  
6 revealed that R.S. attempted to obtain nude pictures of a Pittsfield, MA couple's three-  
7 month-old infant daughter via text message. At the time, R.S. was posing as a thirty-  
8 three-year-old female babysitter and had responded to the couple's advertisement for a  
9 babysitter. The couple reported R.S. to the Pittsfield Police Department, who in turn  
10 notified the Chelan County Sheriff's Office.

11 7. On November 26, 2017, Chelan County Deputy Sheriff J. Mathena  
12 interviewed R.S. concerning his attempts to obtain child pornography. Following  
13 advisement and waiver of his constitutional rights, R.S. admitted to conversing via text  
14 message with the Pittsfield couple and posing as a female babysitter. R.S. disclosed that  
15 he responded to another babysitting advertisement from Seattle Craigslist and was  
16 communicating with an individual later identified as TIMOTHY ROSS SMITH via text  
17 message. R.S. reported that he portrayed himself as an adult female in his  
18 communications with TIMOTHY ROSS SMITH and received nude photos and videos of  
19 a minor female child from TIMOTHY ROSS SMITH via text message.

20 8. On November 28, 2017, Deputy Sheriff J. Mathena obtained a Washington  
21 State search warrant for R.S.'s Samsung cellular phone. A subsequent forensic review of  
22 R.S.'s cellular phone revealed R.S. had extensive text conversations, starting on October  
23 2, 2017, with "Tim" on a cellular phone number ending in 3240. Deputy Sheriff J.  
24 Mathena subsequently identified "Tim" as TIMOTHY ROSS SMITH by checking phone  
25 number ending in #3240 on a law enforcement database. Deputy Sheriff J. Mathena  
26 confirmed MV1's identity via photos posted on TIMOTHY ROSS SMITH's Facebook  
27 page and through confirmation with employees at MV1's elementary school. Forensic  
28 examination of the Samsung cellphone confirmed that throughout most of November

1 2017, R.S. requested photos of MV1 and TIMOTHY ROSS SMITH provided the  
2 photos/videos by cellular phone.

3 9. The following files were recovered during the forensic examination of  
4 R.S.'s Samsung cellular phone, and were sent by TIMOTHY ROSS SMITH via cellular  
5 phone number ending in #3240:

6 i. November 8, 2017, at 7:11 p.m. PST: This video with audio  
7 is 53 seconds in length and depicts MV1 taking a shower while standing up. MV1 is  
8 nude and can be seen washing her body throughout the video. The video is taken from  
9 the perspective of TIMOTHY ROSS SMITH, who can be heard giving instructions to  
MV1 about washing. MV1 does appear to know she is being recorded.

10 ii. November 19, 2017, at 7:50 p.m. PST: This video with audio  
11 is 31 seconds in length and depicts MV1 laying nude on the floor. MV1's legs are  
12 spread open and her vagina is exposed to the camera. The video is taken from the  
13 perspective of TIMOTHY ROSS SMITH. MV1 does appear to know she is being  
recorded.


14 10. On January 12, 2018, TIMOTHY ROSS SMITH was arrested in Sumas,  
15 Washington, pursuant to a Washington State arrest warrant for violation of RCW  
16 9.68A.040 Sexual Exploitation of a Minor – Domestic Violence and RCW 9.68A.050  
17 Dealing in Depictions of Minors Engaged in Sexually Explicit Conduct in the Second  
18 Degree. Following advisement and waiver of his constitutional rights, TIMOTHY ROSS  
19 SMITH confessed to sending images/videos of MV1 to R.S. during the interview with  
20 Chelan County Deputy Sheriff's J. Mathena and B. Long.

21 11. At the time of TIMOTHY ROSS SMITH's arrest, Deputy Sheriff J.  
22 Mathena seized a LG cellular phone from TIMOTHY ROSS SMITH's vehicle pursuant  
23 to a consent search of the vehicle by TIMOTHY ROSS SMITH. Deputy Sheriff J.  
24 Mathena's state search warrant for TIMOHTY ROSS SMITH's residence also included a  
25 cell phone with the phone number ending in #3240. Deputy Sheriff J. Mathena verified  
26 the LG phone recovered from TIMOTHY ROSS SMITH's vehicle was the phone ending  
27 in #3240. A forensic review of the LG phone was conducted, pursuant to the state search  
28 warrant. I know based upon training and experience that LG cellular phones are not

entirely manufactured within the State of Washington. On February 28, 2018, Deputy Sheriff J. Mathena reviewed the forensic examination results and located fifty-five photos depicting MV1, approximately five videos depicting MV1, and text messages between TIMOTHY ROSS SMITH and R.S. from the LG cellphone. One image recovered depicted MV1 nude in the shower. Another image depicted MV1 lying nude on the floor with her legs spread open, exposing her vagina. Deputy Sheriff J. Mathena recognized the same files from TIMOTHY ROSS SMITH'S LG cellular phone depicting MV1 were the same files located on R.S.'s cellular phone.

### III. CONCLUSION

12. Based on the above facts, I believe that there is probable cause to conclude that TIMOTHY ROSS SMITH committed the offenses charged in this Complaint.

  
 JESSE MILLER, Complainant,  
 Special Agent  
 Department of Homeland Security  
 Homeland Security Investigations

The above-named agent provided a sworn statement attesting to the truth of the contents of the foregoing affidavit and complaint the Court hereby finds that there is probable cause to believe the Defendant committed the offenses set forth in the Complaint.

DATED this 27<sup>th</sup> day of November 2018.

  
 James P. Donohue  
 United States Magistrate Judge

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